IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10274 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DALPATLAL PREMCHAND SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 10274 of 1994

MRS KETTY A MEHTA for Petitioner No. 1

MR M R MENGDEY AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 19/10/2004

ORAL JUDGEMENT

1. The petitioner herein has preferred this petition in order to quash and set aside the order dated

28/06/1994 passed by the Deputy Collector, Stamp Duty Valuation Organization, at Annexure-E to the petition, and to direct the respondents not to take any further proceedings in lieu of the said order.

2. Mrs.K A Mehta learned advocate for the petitioner has submitted that the petitioner was not heard before the impugned order was passed by the respondent authority. She has submitted that u/s.32(A) of the Bombay Stamp Duty Act, 1958, the respondent authority has no power to issue notice for deciding the market value and for claiming the additional stamp duty after a period of two years. Therefore, the authority has committed an error in respect of the Statutory Rules, by issuing notice after a period of two years.

3. Mr.M R Mengdey learned AGP has submitted that in spite of the issuance of Notices, the petitioner has not approached before the respondent authority.

4. I have heard learned counsel for the parties and perused the relevant documents on record. Having gone through the averments made in the petition as also the impugned order of the Deputy Collector, it is clear that the petitioner was not heard, before the impugned order dated 28/06/1994 was passed. Neither the petitioner nor anyone on his behalf was heard by the authority before the said order was passed. Hence, it would be appropriate to remand the matter back for reconsideration and for decision in the matter afresh.

5. In the result, the order dated 28/06/1994 passed by the Deputy Collector, Stamp Duty Valuation Organization, at Annexure-E to the petition, is quashed and set aside. The matter is ordered to be remanded back for reconsideration and the respondent authority shall decide the matter afresh, after giving an opportunity to the petitioner of being heard, and without being influenced by the fact that this Court has quashed its earlier order and by the observations made by this Court in this petition.

(K. S. Jhaveri, J.)

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